

MAINE STATE LEGISLATURE

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130th MAINE LEGISLATURE

FIRST SPECIAL SESSION-2021

Legislative Document

No. 1708

H.P. 1269

House of Representatives, May 17, 2021

**An Act To Create the Pine Tree Power Company, a Nonprofit
Utility, To Deliver Lower Rates, Reliability and Local Control for
Maine Energy Independence**

Received by the Clerk of the House on May 13, 2021. Referred to the Committee on Energy, Utilities and Technology pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

Handwritten signature of Robert B. Hunt in cursive.

ROBERT B. HUNT
Clerk

Presented by Representative BERRY of Bowdoinham.
Cosponsored by Senator BENNETT of Oxford and
Representatives: CARLOW of Buxton, GROHOSKI of Ellsworth, NEWELL of the
Passamaquoddy Tribe, POIRIER of Skowhegan, Senators: BRENNER of Cumberland,
President JACKSON of Aroostook, WOODSOME of York.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 5 MRSA §12004-G, sub-§36** is enacted to read:

3 **36.**

4 Public Pine Tree Power Company Board \$110/Day and 35-A MRSA
5 Utilities Expenses §4002

6 **Sec. 2. 21-A MRSA §354, sub-§5, ¶G**, as enacted by PL 1985, c. 161, §6, is
7 amended to read:

8 G. For a candidate for State Representative, at least 50 and not more than 80 voters;
9 ~~and~~

10 **Sec. 3. 21-A MRSA §354, sub-§5, ¶H**, as enacted by PL 1985, c. 161, §6, is
11 amended to read:

12 H. For a candidate for county charter commission member, at least 50 and not more
13 than 80 voters; ~~and~~

14 **Sec. 4. 21-A MRSA §354, sub-§5, ¶I** is enacted to read:

15 I. For a candidate for member of the Pine Tree Power Company Board under Title
16 35-A, section 4002, subsection 2, paragraph A, at least 300 and not more than 400
17 voters.

18 **Sec. 5. 35-A MRSA §1511-A** is enacted to read:

19 **§1511-A. Fitness to serve**

20 By January 1, 2024, the commission shall find a transmission and distribution utility
21 with 50,000 or more customers unfit to serve and shall require the sale of the utility if the
22 commission determines that the utility has, within the previous 5 years been found to have
23 met 2 or more of the following criteria for unfitness:

24 **1. Customer satisfaction.** Repeatedly been rated in the lowest decile of utilities of a
25 similar size for customer satisfaction on a reputable national survey of utility business or
26 retail customers;

27 **2. Reliability.** Repeatedly reported reliability, with or without major event days, in
28 the lowest decile of utilities of a similar size in the country; and

29 **3. Cost.** Repeatedly charged its customers residential delivery rates in the highest
30 decile among utilities of a similar size in the country.

31 **Sec. 6. 35-A MRSA §3501, sub-§1, ¶D**, as amended by PL 2019, c. 311, §2, is
32 further amended to read:

33 D. The portion of any municipal or quasi-municipal entity located in the State
34 providing transmission and distribution services; ~~and~~

35 **Sec. 7. 35-A MRSA §3501, sub-§1, ¶E**, as amended by PL 2019, c. 311, §2, is
36 further amended to read:

37 E. Any transmission and distribution utility wholly owned by a municipality located
38 in the State; ~~and~~

39 **Sec. 8. 35-A MRSA §3501, sub-§1, ¶F** is enacted to read:

1 F. The Pine Tree Power Company established in chapter 40.

2 **Sec. 9. 35-A MRSA §3502, first ¶**, as amended by PL 1999, c. 398, Pt. A, §86 and
3 affected by §§104 and 105, is further amended to read:

4 Notwithstanding section 310, any consumer-owned transmission and distribution
5 utility, except for the Pine Tree Power Company established in chapter 40, that proposes
6 to increase rates, tolls or charges by not more than 15% of the utility's annual operating
7 revenues or proposes to decrease rates, tolls or charges in any amount may elect to set rates
8 pursuant to this section and section 3503.

9 **Sec. 10. 35-A MRSA c. 40** is enacted to read:

10 **CHAPTER 40**

11 **PINE TREE POWER COMPANY**

12 **§4001. Definitions**

13 As used in this chapter, unless the context otherwise indicates, the following terms
14 have the following meanings.

15 **1. Acquired utility.** "Acquired utility" means an investor-owned transmission and
16 distribution utility whose facilities or property are purchased or intended for purchase
17 pursuant to this chapter.

18 **2. Board.** "Board" means the Pine Tree Power Company Board established in Title
19 5, section 12004-G, subsection 36.

20 **3. Company.** "Company" means the Pine Tree Power Company established in section
21 4002.

22 **4. Cost of service.** "Cost of service" means the total amount that must be collected by
23 the company to recover its costs but does not include any return on capital investment
24 unless a return is required as security for debt service.

25 **5. Customer-owner.** "Customer-owner" means a person to whom the company
26 provides electricity.

27 **6. Generating source.** "Generating source" means a machine or device that produces
28 electric energy by any means.

29 **7. Utility facility.** "Utility facility" means any portion of a plant used or useful in
30 providing transmission and distribution utility service and includes, but is not limited to,
31 transmission lines, office buildings, equipment and transportation equipment.

32 **8. Utility property.** "Utility property" means any tangible or intangible asset, liability,
33 obligation, plan, proposal, share, agreement or interest of a utility; any facility in
34 development or planning by the utility as of January 1, 2020; and, without limitation, the
35 entire utility and any part or portion of the utility.

36 **§4002. Pine Tree Power Company established; purpose**

1 The Pine Tree Power Company is established to provide for its customer-owners in this
2 State reliable, affordable electric transmission and distribution services in accordance with
3 this chapter.

4 **1. Company purposes.** The company shall use its access to low-cost capital and its
5 ability to manage the electric transmission and distribution system in a manner that is not
6 focused on ensuring shareholder profits for the following purposes:

7 A. To deliver electricity to the company’s customer-owners in a safe, affordable and
8 reliable manner;

9 B. To ensure excellence, timeliness and accuracy in billing, metering and customer
10 service;

11 C. To provide an open, supportive and competitive platform to develop and deploy
12 renewable generation, storage, efficiency and beneficial electrification technologies;

13 D. To assist the State in rapidly meeting or exceeding the climate action plan goals
14 established in Title 38, chapter 3-A;

15 E. To improve the State’s Internet connectivity through more affordable access to
16 utility poles and other infrastructure in unserved or underserved areas of the State, as
17 defined in section 9202, subsection 5;

18 F. To advance economic, environmental and social justice and to benefit company
19 workers and all communities in the State;

20 G. To provide for transparent and accountable governance; and

21 H. To support, secure and sustain economic growth and benefits for the State.

22 **2. Governance; board.** The company is created as a body corporate and politic and
23 is governed by the Pine Tree Power Company Board in accordance with this section.

24 The board is composed of 11 members, 7 of whom are elected, voting members and 4 of
25 whom are expert advisory members selected by the voting members. All members must
26 be residents of the State.

27 A. Each of the 7 elected, voting members must be a legal citizen of the United States
28 for at least 5 years, be at least 21 years of age, be a legal Maine resident for at least 1
29 year and have lived in the area the member represents as provided in this paragraph for
30 at least 3 months. Each elected, voting member must represent 5 of the State’s 35 State
31 Senate districts, as set out in Title 21-A, section 1203-B, as follows:

32 (1) One member represents State Senate districts 1 to 5;

33 (2) One member represents State Senate districts 6 to 10;

34 (3) One member represents State Senate districts 11 to 15;

35 (4) One member represents State Senate districts 16 to 20;

36 (5) One member represents State Senate districts 21 to 25;

37 (6) One member represents State Senate districts 26 to 30; and

38 (7) One member represents State Senate districts 31 to 35.

1 B. The 4 expert advisory members must be selected by the elected, voting members.
2 The expert advisory members must collectively possess expertise and experience
3 across the following 4 areas:

4 (1) Utility law, management, regulation or finance;

5 (2) Clean energy and the environment;

6 (3) The concerns of utility employees; and

7 (4) The concerns of electricity consumers.

8 C. Candidates for election to the board pursuant to paragraph A are eligible for funding
9 through the Maine Clean Election Act, in amounts and under terms commensurate with
10 those for candidates for the State Senate. The Commission on Governmental Ethics
11 and Election Practices, established pursuant to Title 5, section 12004-G, subsection 33,
12 shall adopt rules to implement this paragraph. Rules must include, at a minimum, the
13 procedures for qualifying and certification and for allocation of distributions from the
14 fund and other provisions necessary to ensure consistency with the provisions of the
15 Maine Clean Election Act. Rules adopted pursuant to this paragraph are major
16 substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

17 The nomination and election of the elected, voting members of the board are governed by
18 the provisions of Title 21-A concerning nonpartisan elections for county office other than
19 county commissioner or county charter commission member, except that the determination
20 of the elections is governed by Title 21-A, section 723-A. The Secretary of State may
21 adopt rules governing the election of members of the board and shall consult with the
22 commission in developing the rules. Rules adopted under this subsection are routine
23 technical rules as defined in Title 5, chapter 375, subchapter 2-A.

24 **3. Term of office.** An elected, voting member of the board serves for a term of 6 years
25 and an expert advisory member of the board serves for a term of 4 years. An elected, voting
26 member serves from December 1st to November 30th and an expert advisory member
27 serves from February 1st to January 31st. A majority of elected, voting members shall
28 declare a vacancy on the board upon the resignation, death or incapacitation of an elected,
29 voting member, in the event that a member is absent without leave of the chair for at least
30 half of all board meetings held in a 180-day period or in the event of a member's gross and
31 continual neglect of duty. If there is a vacancy on the board of an expert advisory member,
32 it must be filled within 180 days in the same manner as described in subsection 1 and the
33 person selected to fill a vacancy serves for the unexpired term of the member whose
34 vacancy the person is filling. If there is a vacancy on the board of an elected, voting
35 member, the board shall notify the Governor and the vacancy must be filled within 180
36 days in the same manner as for a State Senator under Title 21-A, sections 366 and 381, and
37 the person elected to fill a vacancy serves for the unexpired term of the member whose
38 vacancy the person is filling. Expert advisory members may be reelected and voting
39 members may be reelected.

40 **4. Quorum and chair.** Four elected, voting members of the board constitute a
41 majority and a quorum. The board shall elect from its elected, voting members a chair and
42 a vice-chair. The vice-chair shall serve as acting chair in the absence of the chair.

43 **5. Voting.** Except as otherwise provided in this Title, all decisions of the board must
44 be made by a majority vote of the elected, voting members of the board. Whenever

1 possible, the board shall attempt to achieve consensus among voting and nonvoting
2 members.

3 **6. Bylaws; due diligence.** The board shall adopt bylaws, conduct due diligence as it
4 considers necessary and develop a transition plan and a business plan for the company prior
5 to making a purchase price offer for any utility facility or utility property.

6 **7. Board review.** Four years after the first meeting of the board, the board shall review
7 the effectiveness of the company governance structure and shall report to the joint standing
8 committee of the Legislature having jurisdiction over energy and utilities matters the
9 outcome of this review. The report may suggest necessary changes to the governance
10 structure of the company. The committee may report out legislation pertaining to the
11 recommendations in the report.

12 **§4003. Powers and duties; acquisition of utility facilities and utility property**

13 **1. Powers; generally.** The company is a consumer-owned transmission and
14 distribution utility and has all the powers and duties of a transmission and distribution
15 utility under this Title, as affected by the provisions of chapter 35, within the service
16 territories of the investor-owned transmission and distribution utilities whose utility
17 facilities it acquires under this chapter.

18 **2. Limits on company; generating property.** The company may not own or operate
19 a generating source or purchase electric capacity or energy from a generating source, except
20 as the commission may approve in order to allow the company to maintain or improve
21 system reliability.

22 **3. Operations.** The company shall contract by means of a competitive public
23 solicitation the services of a qualified nongovernmental entity, referred to in this chapter as
24 "the operator," or "the operations team," to provide cost-effective, private sector operations,
25 maintenance, customer accounts management and customer service and information and to
26 assist as necessary in regulatory affairs, capital planning and administrative services. In
27 requesting and evaluating bids for the provision of these services, the board shall consider
28 anticipated costs; professional, operational and managerial experience; familiarity with the
29 systems to be administered; and ability to improve customer service and employee morale.
30 The company may establish additional criteria for its solicitation and shall determine the
31 period and the specific terms of each operations contract.

32 **4. Operator employees.** The employees of the operations team retained to operate
33 the company's facilities are considered private employees, with all the rights and
34 responsibilities of private employees. The operator shall hire any person who was an
35 employee of the acquired utility at the time the company acquired the utility facilities who
36 is a qualified, nonexempt employee subject to collective bargaining agreements of the
37 acquired utility. To ensure continuity and an experienced local workforce, the operations
38 team shall offer to these employees a retention bonus of 6% of annual gross pay for the
39 first year of work and 4% of annual gross pay for the 2nd year of work. This bonus must
40 be payable on the earlier of the anniversary of the date of hire and the date of a termination
41 of employment that occurs following the date of hire, as long as the termination is due to
42 the employee's death or disability, by the employer without cause or by the employee for
43 good reason. The operations team shall maximize opportunities for internal promotion,
44 additional staffing and on-the-job training for all employees and may not contract with
45 other businesses to perform work that could reasonably have been performed by qualified,

1 nonexempt employees of the operations team. The operator shall assume all retirement
2 benefit obligations to the workers of and retirees of an acquired utility, unless these
3 obligations have remained with the acquired utility, its corporate parent or a pension plan
4 trust regulated by the federal Employee Retirement Income Security Act of 1974. The
5 operator shall honor and maintain the terms of any collective bargaining agreements in
6 effect at the time the company acquired the investor-owned transmission and distribution
7 utility for the remaining term of any collective bargaining agreement, except that, when 2
8 or more contracts exist, the employees' wages, salaries and benefits must be made
9 reasonably equal to the higher of those provided in the contracts or must exceed those
10 previously paid by the acquired utility.

11 Upon the conclusion of a contract pursuant to subsection 3, the company, in soliciting for
12 a new contract, shall give preference to service providers who agree to maintain or improve
13 the terms of the collective bargaining agreement in existence on the conclusion of the prior
14 contract.

15 **5. Acquisition of utility facilities and utility property.** Notwithstanding any other
16 provision of this Title, rules adopted under this Title or any other applicable law to the
17 contrary, the company shall purchase or acquire by the exercise of the right of eminent
18 domain all utility facilities in the State owned or operated or held for future use by any
19 investor-owned transmission and distribution utility, in accordance with this subsection,
20 and may also purchase or acquire by the exercise of the right of eminent domain in
21 accordance with this subsection any other investor-owned transmission and distribution
22 utility property should the board determine such an acquisition to be in the interest of its
23 customer-owners. The company shall finance the purchase or acquisition of utility
24 facilities or utility property under this subsection by issuing debt in accordance with chapter
25 9. The board may not purchase or acquire by the right of eminent domain any utility
26 facilities or utility property under this subsection until 12 months after the effective date of
27 this chapter or 6 months after the first meeting of the board, whichever is later.

28 A. Within 18 months after the effective date of this chapter or 12 months after the first
29 meeting of the board, whichever is later, unless further delayed to a date certain by a
30 vote of at least 5 elected, voting members of the board, the company shall:

31 (1) Identify the utility facilities and any other utility property in the State owned
32 or operated or held for future use by any investor-owned transmission and
33 distribution utility to be purchased by the company;

34 (2) Determine a purchase price offer to be made for the utility facilities and other
35 utility property. The purchase price offer must include compensation for the cost
36 of preparing and submitting necessary regulatory filings, including but not limited
37 to those required by the federal Department of Energy, Federal Energy Regulatory
38 Commission; and

39 (3) Deliver notice of the purchase price offer, including detailed description of the
40 utility facilities and other utility property to be purchased, to the investor-owned
41 transmission and distribution utility that owns, operates or holds for future use the
42 subject utility facilities and utility property.

43 B. After the receipt of a notice of the purchase price offer under paragraph A,
44 subparagraph (3), the investor-owned transmission and distribution utility may, within
45 30 days of the date of receipt, submit a counteroffer to the board. If the board rejects

1 the counteroffer, within 30 days of the date of receipt of the rejection the investor-
2 owned transmission and distribution utility may petition the Superior Court of
3 Kennebec County to determine and order an alternative purchase price for the subject
4 utility facilities or utility property in accordance with this paragraph. The purchase
5 price determined by the court must include compensation for the cost of preparing and
6 submitting necessary regulatory filings, including but not limited to those required by
7 the federal Department of Energy, Federal Energy Regulatory Commission. After the
8 filing of a petition by an investor-owned transmission and distribution utility under this
9 paragraph, the Superior Court, as expeditiously as possible, shall:

10 (1) Select, in consultation with the company and the petitioner, a referee or referees
11 with relevant expertise and capabilities to determine a recommended purchase
12 price for the utility facilities and utility property;

13 (2) Complete a trial or hearing, as appropriate, for the presentation of evidence to
14 referees, who shall submit a recommended purchase price to the court; and

15 (3) Render a decision and, based upon the recommended purchase price submitted
16 under subparagraph (2) and any other information available to the court, order a
17 purchase price to be paid by the company to the petitioner for possession and
18 ownership of the subject utility facilities and utility property.

19 The decision of the Superior Court under this paragraph is appealable to the Law Court
20 as in any civil action.

21 C. The taking of utility facilities and utility property by the company is governed by
22 this paragraph.

23 (1) Notwithstanding any law to the contrary, if a petition is filed under paragraph
24 B, the company may, after any appeals are resolved, take the subject utility
25 facilities and utility property identified in paragraph A by eminent domain at the
26 final price rendered by the court, in the same manner and under the same conditions
27 as set forth in chapter 65.

28 (2) Notwithstanding any law to the contrary, if a petition is not filed under
29 paragraph B, the company may take the subject utility facilities and utility property
30 identified in paragraph A by eminent domain at the purchase price offer, in the
31 same manner and under the same conditions as set forth in chapter 65.

32 Within 45 days of the date upon which the purchase price is either mutually agreed upon
33 by the company and the investor-owned transmission and distribution utility or is finally
34 determined through the judicial process set forth under paragraph B, the investor-owned
35 transmission and distribution utility shall prepare and submit any regulatory filings
36 necessary to the transfer of subject utility facilities and utility property, including but not
37 limited to those required by the federal Department of Energy, Federal Energy Regulatory
38 Commission. If the investor-owned transmission and distribution utility does not prepare
39 and submit such filings within 45 days, the company may request that the commission
40 investigate the utility's failure to prepare and submit the filings. Upon such a request from
41 the company, the commission shall, in a timely manner, investigate the utility's failure to
42 prepare and submit the filings. If the commission finds the investor-owned transmission
43 and distribution utility unreasonably delayed or failed to prepare and submit the filings, or
44 failed to prosecute and pursue federal regulatory approvals of the transfer in good faith, the

1 commission shall direct the utility to do so by a date certain and may order other remedies,
2 including deducting the cost of preparing and submitting such regulatory filings from the
3 purchase price or otherwise preventing the utility from recouping the cost.

4 The commission shall impose such conditions on the acquisition of all utility facilities and
5 utility property in the State owned or operated or held for future use by any investor-owned
6 transmission and distribution utility as it determines are necessary to protect the public
7 interest during the period between the effective date of this chapter and the date on which
8 ownership and control are fully assumed by the company and the operations team. The
9 commission shall take all necessary actions to ensure that the investor-owned transmission
10 and distribution utilities and their owners cooperate fully and cost-effectively with the
11 company during the transition in ownership and control.

12 **6. Regional transmission.** The service territories of the company initially remain in
13 the transmission system to which they belonged on the effective date of this chapter until
14 changed by majority vote of the board.

15 **7. Names.** The company may adopt one or more alternative or regional names to
16 distinguish its service territories or for any other purpose.

17 **8. Rules.** The company may adopt rules pursuant to Title 5, chapter 375, subchapter
18 2-A for establishing and administering the company and carrying out its duties. Rules
19 adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter
20 375, subchapter 2-A.

21 **9. Bylaws.** The company shall adopt bylaws, through the board, consistent with this
22 section for the governance of its affairs.

23 **10. Consumer-owned transmission and distribution utilities; application.** This
24 subsection controls the treatment of consumer-owned transmission and distribution utilities
25 and the application of law to the company.

26 A. This chapter may not be construed to affect the powers, authorities or
27 responsibilities of any consumer-owned transmission and distribution utility other than
28 the company created under this chapter. The company may not oppose the extension
29 of the service territory of a consumer-owned transmission and distribution utility
30 existing prior to the effective date of this chapter to include the entirety of a
31 municipality in which the consumer-owned transmission and distribution utility
32 provides electric service as long as the company is reasonably compensated for the
33 assets and appurtenances required.

34 B. Notwithstanding any other provision of this chapter or any other provision of law
35 to the contrary, the company is subject to section 310; section 3104; section 3132,
36 subsection 2-D; sections 3132-A, 3132-B, 3132-C and 3132-D; section 3144; section
37 3210-C, subsections 3, 7 and 11; sections 3212 and 3212-B; and section 3214,
38 subsection 2-A.

39 **11. Board staff; transition.** The board may hire a director or manager, support staff
40 and counsel. Additionally, assistance and counsel may be provided to the board by the
41 Office of the Treasurer of State, the Office of the Attorney General, the Maine Municipal
42 Bond Bank, the Finance Authority of Maine, the commission, the Office of the Public
43 Advocate and others. All initial activities and expenditures of the board prior to the final
44 acquisition of utility facilities and utility property must be funded by short-term debt of the

1 company, to be retired in the initial financing and acquisition of the investor-owned
2 transmission and distribution utility facilities and utility property. Debt incurred by the
3 board for its initial activities and expenditures is guaranteed by the retail customers of each
4 of the State's 2 investor-owned transmission and distribution utilities, and, notwithstanding
5 any provision of law to the contrary, the costs of these initial activities and expenditures
6 must be considered by the commission to be just and reasonable for rate-making purposes.

7 **§4004. Cost-of-service rates; no use of state funds or tax dollars**

8 The rates and all other charges of the company must be sufficient to pay in full the cost
9 of service, including the cost of debt and any payments in lieu of taxation. No debt or
10 liability of the company is a debt or liability of the State or any agency or instrumentality
11 of the State other than the company, and neither the State nor any agency or instrumentality
12 of the State other than the company guarantees any debt or liability of the company.

13 **§4005. Tax-exempt; payments in lieu of taxes**

14 **1. Tax exemptions.** The company is a public municipal corporation within the
15 meaning and for the purposes of Title 36, section 651, and the property of the company is
16 exempt from taxation to the extent provided in that section. Notwithstanding any provision
17 of law to the contrary, income of the company is exempt from all taxation or assessment
18 by the State or any political subdivision of the State.

19 All bonds, notes and other evidences of indebtedness issued by the company in accordance
20 with chapter 9 are legal obligations of the company, and the company is a quasi-municipal
21 corporation within the meaning and for the purposes of Title 30-A, section 5701. All bonds,
22 notes and other evidences of indebtedness issued by the company are legal investments for
23 savings banks in this State and are exempt from state income tax.

24 **2. Payments in lieu of taxes.** Rates charged by the company must include sufficient
25 amounts to allow the company to make payments in lieu of taxes in accordance with this
26 subsection. The company shall make payments in lieu of taxes with respect to its utility
27 facilities or utility property to any municipality, county or other political subdivision to
28 which an investor-owned transmission and distribution utility whose utility facilities the
29 company acquired pursuant to this chapter paid taxes and in the same amount as those taxes
30 would have been if the investor-owned transmission and distribution utility had continued
31 to own the utility facilities or utility property. The company shall make timely payments
32 in lieu of taxes on all facilities or property it owns, including all facilities and property
33 procured, constructed or improved after the company has commenced operations.

34 **§4006. No debt or liability of the State**

35 The company serves a public purpose in the carrying out of the provisions of this
36 chapter, but no debt or liability of the company may be considered a debt or liability of the
37 State.

38 **§4007. Termination of the company**

39 The company may not be dissolved or cease operations except by authorization of law
40 and only if all debt and liabilities of the company have been paid or a sufficient amount for
41 the payment of all debt and liabilities has been placed in an irrevocable trust for the benefit
42 of the holders of the debt.

43 **§4008. Freedom of access; confidentiality**

1 The proceedings and records of the company are subject to the freedom of access laws,
2 Title 1, chapter 13, except as specifically provided in this section.

3 **1. Confidential records.** The following records are designated as confidential for
4 purposes of Title 1, section 402, subsection 3, paragraph A:

5 A. A record obtained or developed by the company that a person, including the
6 company, to whom the record belongs or pertains has requested be designated
7 confidential and that the company has determined contains information that gives the
8 owner or a user an opportunity to obtain a business or competitive advantage over
9 another person who does not have access to the information, except through the
10 company's records, or access to which by others would result in a business or
11 competitive disadvantage, loss of business or other significant detriment to any person
12 to whom the record belongs or pertains; and

13 B. A record that contains usage or other nonpublic information regarding a customer
14 of a transmission and distribution utility in the State.

15 The company shall provide to a legislative committee, on written request signed by the
16 chairs of that committee, any information or records, including information designated
17 confidential under this subsection, specified in the written request. The information or
18 records may be used only for the lawful purposes of the committee and in any action arising
19 out of any investigation conducted by the committee, subject to protective order.

20 **2. Exceptions.** Notwithstanding subsection 1, the following are not confidential and
21 are public records:

22 A. Any otherwise confidential information the confidentiality of which the company
23 determines to have been satisfactorily and effectively waived;

24 B. Any otherwise confidential information that has already lawfully been made
25 available to the public; and

26 C. Impersonal, statistical or general information.

27 **3. Disclosure prohibited; further exceptions.** A board member, employee, agent,
28 other representative of the company or other person may not knowingly divulge or disclose
29 records designated confidential by this section, except that the company, in its discretion
30 and in conformity with legislative freedom of access criteria in Title 1, chapter 13,
31 subchapter 1-A, may make or authorize any of the following disclosures of information:

32 A. If necessary in connection with processing any application for, obtaining or
33 maintaining financial assistance for any person;

34 B. To a financing institution or credit reporting service;

35 C. Information necessary to comply with any federal or state law, regulation or rule or
36 with any agreement pertaining to financial assistance;

37 D. If necessary to ensure collection of any obligation in which the company has or
38 may have an interest;

39 E. In any litigation or proceeding in which the company has appeared, introduction for
40 the record of any information obtained from records designated confidential by this
41 section; and

1 F. Pursuant to a subpoena, request for production of documents, warrant or other order,
2 as long as the order appears to have first been served on the person to whom the
3 confidential information sought pertains or belongs and as long as the order appears on
4 its face or otherwise to have been issued or made lawfully.

5 **§4009. Annual report**

6 By April 15th of each year, beginning no more than one year after the first meeting of
7 the board, the company shall submit a report to the joint standing committee of the
8 Legislature having jurisdiction over energy and utilities matters summarizing the activities
9 and performance of the company in meeting its obligations to its customer-owners and its
10 responsibilities under sections 4002 and 4003 during the preceding calendar year and its
11 plans for the current year and subsequent 5 years. Each annual report must describe in
12 detail how the company's decisions, operations and use of low-cost financing have
13 supported and will support the State's progress toward the climate action plan goals
14 established under Title 38, chapter 3-A and how such financing has affected and will affect
15 job creation and gross state product.

16 **§4010. Initial 5-year plan**

17 Within 18 months of the date in which the company and the operations team fully take
18 ownership and control of all utility facilities in the State owned or operated or held for
19 future use by any investor-owned transmission and distribution utility, the company shall
20 submit to the commission for approval a 5-year plan to meet initial affordability, reliability,
21 decarbonization and connectivity goals.

22 **1. Plan minimum requirements.** At a minimum, the 5-year plan under this section
23 must also include a program to:

24 A. Establish lower rates for low-income residential customers;

25 B. Build across the State accessible, rapid charging infrastructure for electric vehicles;

26 C. Reduce make-ready and pole attachment costs for open-access fiber-optic cable in
27 unserved and underserved areas of the State as defined in section 9202, subsection 5;
28 and

29 D. Make rapid investments in the distribution network to upgrade reliability and to
30 improve capacity for interconnections of new renewable generation and storage
31 facilities.

32 **Sec. 11. Review of laws and report.** The Public Utilities Commission shall
33 examine all laws that may be affected by this Act or need to be changed as a result of this
34 Act, including laws governing the Pine Tree Power Company as established under the
35 Maine Revised Statutes, Title 35-A, section 4002, and laws relating to investor-owned
36 transmission and distribution utilities that may be eliminated as a result of this Act. The
37 commission shall determine any modifications to laws that may be necessary or appropriate
38 as a result of this Act or to effectuate the purposes of this Act and shall submit proposed
39 legislation to the joint standing committee of the Legislature having jurisdiction over
40 energy, utilities and technology matters no later than 6 months after the first meeting of the
41 Pine Tree Power Company Board under Title 35-A, section 4002. The joint standing
42 committee of the Legislature having jurisdiction over energy, utilities and technology
43 matters may report out a bill relating to the subject matter of this Act and to the
44 commission's report.

1 in the State. The fair market value of the acquisition is either negotiated or determined by
2 a refereed process. The Pine Tree Power Company Board contracts a nongovernmental
3 team to operate the facilities, and the operations team is required to retain all workers of
4 the purchased utilities.

5 The company is required to make payments equivalent to property taxes to
6 municipalities. The company is subject to ratemaking and other oversight by the Public
7 Utilities Commission and is required to administer programs for net energy billing,
8 nonwires alternatives, supply procurement and low-income assistance programs.

9 The company is governed by a board of 7 voting members, each elected to represent 5
10 State Senate districts, as well as 4 expert advisory members. The board is subject to
11 freedom of access laws and to laws preventing conflicts of interest.

12 The bill also directs the Public Utilities Commission by January 1, 2024 to find a
13 transmission and distribution utility unfit to serve and to direct the sale of the utility if
14 within the previous 5 years the utility has been found to have been rated the lowest for
15 customer satisfaction, has reported reliability in the lowest decile of utilities of a similar
16 size in the country or has charged its customers residential delivery rates in the highest
17 decile among utilities of a similar size in the country.

18 This bill requires that, before the Act becomes effective, the Act must be submitted to
19 the legal voters of the State at a statewide election held in the month of November following
20 passage of this Act in order to allow the legal voters of the State to vote on the creation of
21 the Pine Tree Power Company.